

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ENRICO PAVAO.

No. 2:20-cv-01693-TLN-CKD P

Plaintiff,

ORDER

UNKNOWN,

Defendant.

Plaintiff, a former county inmate currently in state custody, is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. On January 21, 2021, the court screened plaintiff's complaint and gave him the option of proceeding only on the Eighth Amendment deliberate indifference claims against unknown Sacramento County Sheriff's officers 1 through 10 or of amending his complaint to fix the deficiencies with his remaining claims. ECF No. 16. Plaintiff notified the court of his intention to file a first amended complaint. ECF No. 20. Before the court could screen plaintiff's first amended complaint, plaintiff filed two motions to amend the pending complaint. See ECF Nos. 25, 26.

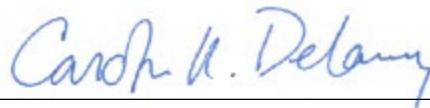
Under Rule 15(a) of the Federal Rules of Civil Procedure, leave to amend shall be given freely when justice so requires. In deciding whether justice requires granting leave to amend, factors to be considered include the presence or absence of undue delay, bad faith, dilatory motive, repeated failure to cure deficiencies by previous amendments, undue prejudice to the

1 opposing party, and futility of the proposed amendment. Forman v. Davis, 371 U.S. 178, 182
2 (1962). Here, the court does not find any evidence of undue delay, bad faith, or dilatory motive
3 on the part of plaintiff in seeking leave to amend. As the first amended complaint has not been
4 ordered served on any defendant, there is no undue prejudice to the opposing party. Based on all
5 these factors, the court finds that justice requires that leave to amend be granted.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's motions to amend his complaint (ECF Nos. 25, 26) are granted.
8 2. Plaintiff is granted thirty days from the date of service of this order to file a second
9 amended complaint that complies with the requirements of the Civil Rights Act, the
10 Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended
11 complaint must bear the docket number assigned this case and must be labeled
12 "Second Amended Complaint." Failure to file an amended complaint in accordance
13 with this order will result in a recommendation that this action be dismissed.

14 Dated: July 1, 2021



15 CAROLYN K. DELANEY
16 UNITED STATES MAGISTRATE JUDGE

17
18
19
20
21
22 12/pava1693.m2amend.docx
23
24
25
26
27
28